

COMPLAINT BY A PRISONER UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983

Name: Rafael Chavez-Alvarez AV-6577, U-316

(Last)

(First)

(Middle Initial)

Prisoner Number: AV-6577

FILED

Institutional Address: CMF P.O. Box 2000

MAY 24 2016

Vacaville, Ca. 95696

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

Rafael Chavez-Alvarez,

(Enter your full name.)

CV16 2796

City of San Jose ^{vs.} Police Dept.,
Lt. Lagorio, Sgt. Carys, Police OfficersCase No. _____
(Provided by the clerk upon filing)Monzon #4147, Marco, Ancelet, Torres-
4175 or 4125, Rollins # 4272, Roberts,
4079, Does 1-15COMPLAINT UNDER THE
CIVIL RIGHTS ACT,
42 U.S.C. § 1983

(Enter the full name(s) of the defendant(s) in this action.)

JURY TRIAL DEMANDED

I. Exhaustion of Administrative Remedies.

Note: You must exhaust available administrative remedies before your claim can go forward. The court will dismiss any unexhausted claims.A. Place of present confinement CMF Vacaville Medical FacilityB. Is there a grievance procedure in this institution? YES ☒ NO ☐C. If so, did you present the facts in your complaint for review through the grievance procedure? YES ☐ NO ☐ Not Applicable

D. If your answer is YES, list the appeal number and the date and result of the appeal at each level of review. If you did not pursue any available level of appeal, explain why.

1. Informal appeal: This is a complaint against the Police department and it's officers.

2. First formal level: Same as above

3. Second formal level: Same as above

4. Third formal level: Same as above

E. Is the last level to which you appealed the highest level of appeal available to you?

YES ☐ NO ☐ Not applicable

F. If you did not present your claim for review through the grievance procedure, explain why.
This is a complaint against the police officers and their dept.

II. Parties.

A. Write your name and present address. Do the same for additional plaintiffs, if any.

SEE ATTACHED COMPLAINT FILED CONCURRENTLY WITH THIS FORM

B. For each defendant, provide full name, official position and place of employment.

SEE ATTACHED COMPLAINT FILED CONCURRENTLY WITH THIS FORM

III. Statement of Claim.

State briefly the facts of your case. Be sure to describe how each defendant is involved and to include dates, when possible. Do not give any legal arguments or cite any cases or statutes. If you have more than one claim, each claim should be set forth in a separate numbered paragraph.

SEE ATTACHED COMPLAINT FILED CONCURRENTLY WITH THIS FORM

IV. Relief.

Your complaint must include a request for specific relief. State briefly exactly what you want the court to do for you. Do not make legal arguments and do not cite any cases or statutes.

SEE ATTACHED COMPLAINT FILED CONCURRENTLY WITH THIS FORM

PLEASE SEND THE INFORMA PAUPERIS APPLICATION TO THE PLAINTIFF
AT THE ADDRESS ABOVE.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Executed on: 5/11/16

Date

X Chavez Rafeal

Signature of Plaintiff

Rafeal Chavez-Alvarez AV-6577

UNITED STATES DISTRICT COURT FOR NORTHERN CALIFORNIA(S.J.)

Rafael Chavez-Alvarez, CASE#
Plaintiff, Complaint per Title 42,U.S.C. §1983,
vs herein but not limited thereto.

City of SanJose Police-
Department,Lt.Lagorio, JURY TRIAL DEMAND
Sgt.Carys,Police Officers-
Monzon#4147,Marco,Ancelet,-
Torres#4175,or 4125,Rollins-
#4272,Roberts #4079,
Does 1-15,
Defendants.

JURISDICTION AND VENUE

This is a Civil Rights action authorized by 42 U.S.C. §1983,to
redress the deprivation, under color of state law of rights secured
by the Constitution of the United States. The court has jurisdiction
under 28 U.S.C. §1331,1343,(a)(3).

The Northern District of California in San Jose is the appropriate
venue under 28 U.S.C. §1391,(b)(2) because it is where the events
giving rise to this claim occurred.

PLAINTIFF

Plaintiff Rafael Chavez-Alvarez AV-6577,was at all times mentioned
herein an arrestee and pre-trial detainee in the County of Santa
Clara in the City of San Jose. In the custody of the San Jose
Police Department and it's employees.Herein but not limited
thereto. Plaintiff is currently confined at CMF in Vacaville,Ca
95696.

DEFENDANTS

All defendants were at the times of the alleged occurence employees
of the San Jose Police Department.

Each defendant is sued in his individual and official capacities
At all times mentioned in this complaint each defendant acted
under color of state law. Herein but not limited thereto.

The following "STATEMENT OF THE CASE" are declared under penalty
of perjury per Title 28,§1746,herein but not limited thereto.

The plaintiff has personal knowledge of the following facts.

UNITED STATES DISTRICT COURT FOR NORTHERN CALIFORNIA (S.J.)

1 Rafael Chavez-Alvarez, CASE#
2 Plaintiff, Civil Rights Complaint per §1983, et seq.
3 vs JURY TRIAL DEMAND
4 City of San Jose Police
5 Department, Lt. Lagorio, Sgt. Carys,
6 Police Officer's Monzon #4147,
7 Marco, Ancelet, Torrs #4175, or 4125,
8 Rollins #4272, Roberts #4079, Does, 1-15,
9 Defendants.

6 The plaintiff Rafael Chavez-Alvarez hereby files this instant
7 civil rights complaint for violations of his U.S. Constitutional
8 rights guaranteed by the 8th and 14th Amendments herein but not
9 limited thereto.

8 STATEMENT OF THE CASE.

9 On 2/9/14, the plaintiff was shot multiple times by two officers
10 during my arrest. But, after 7 months of state impeded access to
11 the trial case file by the San Jose Public Defenders office the
12 plaintiff was ONLY through California State Bar Complaint process
13 able to secure the documentary evidence to be able to file a
14 civil rights action with cognizable claims of deprivations/viola-
15 tions of plaintiff's U.S. Constitutional Rights.

13 During the review of the trial case file it became clear that the
14 defendants had failed to properly investigate the excessive use
15 of force. Solely intended to cause harm and kill the plaintiff
16 and then "covered-up" the actual events.

15 The plaintiff was shot at least 16 times from two officers and
16 ONLY one is named as a shooter in the investigation. Moreover,
17 the plaintiff was tasered by two officers multiples times after
18 being shot and hit multiple times! Even with his hands up!!
19 See exhibits A-T, from San Jose Police Departments own investiga-
20 tion of shooting/arrest of the plaintiff. (hereafter S.J.P.D.).
21 It is my verified complaint under penalty of perjury that these
22 officers were trying to kill me and not arrest me. Intentionally
23 trying to harm me for no legitimate lawful purpose.

20 The defendants actions were intended to cause harm unrelated to
21 legitimate object of arrest or self-protection, Secondly, defendants
22 had a purpose to harm the plaintiff unrelated to legitimate
23 law enforcement objective. Citing Wilkinson v Torres 610 F.3d.546-
24 (9th Cir.2010). Herein but not limited thereto.
25 The defendants actions can be construed as "shocking the conscience".
26 the correct standard in this case.

24 The exhibits outline that there is significant and material issues
25 in dispute that can require further discovery and may lead to
26 additional defendants due to the public defenders office refusing
27 to provide a full accounting of all the trial case file to the
28 plaintiff herein. Thereby creating a state created impediment to
the timely filing of this instant civil rights action.
Thereby tolling the timeliness of this filing. See exhibits U-Y
Letters to and from the California State Bar and the plaintiff.

1 The above events constitute a malicious and sadistic violation(s)
2 of the 8th Amendments prohibition against cruel and unusual
3 punishment. The defendants conduct cannot be reconciled with the
4 record as to justify this excessive use of force solely intended
5 to harm the plaintiff without any lawful purpose and solely to
6 inflict harm upon the plaintiff.

7 I.

8 LEGAL CLAIMS

9 Plaintiff hereby incorporates and reallege by reference paragraphs
10 I-IV, the plaintiff's Statement of the Case. Herein but not
11 limited thereto.

12 The plaintiff alleges via the verified complaint violations/-
13 deprivations of the 8th Amendment of the U.S. Constitution. Due
14 to the defendants cruel and unusual punishments via the use
15 of excessive force solely intended to cause harm without any
16 lawful purpose with the sole intent to harm for no legitimate
17 lawful purpose. The defendants actions were "shocking to the-
18 conscience" and had no lawful purpose to arrest and/or self-protection
19 of the defendants in this instant civil rights complaint. Herein
20 but not limited thereto.

21 The plaintiff has no plain,adequate or complete remedy at law
22 to redres the wrongs described herein but not limited thereto.

23 PRAYER FOR RELIEF

24 WHEREFORE: The plaintiff respectfully prays that this court
25 enter judgement granting plaintiff:

26 A declaration that the acts and omissions described herein
27 violated plaintiff's rights under the Constitution and laws of
28 the United States.

Compensatory damages in the amount of 250k against each defendant
, jointly and severally.

Punitive damages in the amount of 750K, against each defendant.

1 A Jury Trial on all issues triable by Jury.

2 Plaintiff's costs in this suit.

3 Any additional relief this court deems just and proper, and
4 equitable. Herein but not limited thereto.

5 VERIFICATION

6 I, Rafael Chavez-Alvarez, AV-6577, do hereby swear under penalty
7 of perjury that the above is true and correct. I have personal
8 knowledge of the above and so declare pursuant to Title 28, §1746,
9 executed at CMF P.O. Box 2000, Vacaville, Ca. 95696, on 5/11/16.

8 *X Chavez Rafael*

9 Rafael Chavez-Alvarez AV-6577 declaring
10 Proper, indigent, plaintiff, herein

11 CC File
12 San Jose City Attorney/Counsel
13 200 East Santa Clara St. San Jose, ca. 95113
14 U.S. District Court
15 280 South First St. #2112
16 San Jose, Ca. 95113-3008
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